

PROCLAMATION  
BY THE  
*Governor of the State of Texas*

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TO ALL TO WHOM THESE PRESENTS SHALL COME:

I disapprove, and am vetoing Senate Bill 581 for the following reasons:

Section 19 of Senate Bill 581 provides for the State Highway Commission, in its discretion, to expend out of available funds for the purpose, such monies as may be necessary for the study of a Project as contemplated in the Act. Further, it provides for the expenditure of any funds available for effecting such study and to pay additional expenses and travel and other expert studies and all expenses incurred by the State Highway Commission prior to the issuance of Toll Bridge revenue bonds. Section 19 further provides that upon the sale of Toll Bridge revenue bonds for any such project, the funds so expended by the State Highway Commission shall be reimbursed to the State Highway Commission from the proceeds of such bonds.

Article 3, Section 52(b) of the State Constitution provides, "The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to . . . any . . . public agency, or political subdivision . . . which is now or hereafter authorized to construct, maintain, or operate toll roads and turnpikes within this State."

Section 12(b) of the bill provides, "No revenues of any one project shall be used to pay the costs of another project." It is clear, therefore, that preliminary expenses of an aborted project could never be reimbursed to the State Highway Commission. I believe toll bridges must necessarily be included in the constitutional term, "toll roads".

For the reasons set forth, I believe Section 19 of Senate Bill 581 to be unconstitutional as contravening Section 52(b) of Article 3 of the Constitution.

Secondly, Sections 7(b) and 20(c) purport to give the governing body of any political subdivision power to convey property to the Authority.

Article 3, Section 35 of the Texas Constitution provides, "No bill, (except general appropriations bills . . . ) shall contain more than one subject, which shall be expressed in its title . . . ." The grant of power set forth in Sections 7(b) and 20(c) mentioned above is not mentioned in the Title to Senate Bill 581 and in my opinion is a separate subject from the creation, powers, duties, etc. of the authority as contemplated in the Act. Therefore, Sections 7(b) and 20(c), not having been mentioned in the Title, are in contravention of Article 3, Section 35 of the Constitution.

Thirdly, Section 3(c) makes the three Highway Commissioners directors of the Authority. Section 3(h) provides that the member of the Board of Directors shall be entitled to "a fee of \$25 per diem for their services". It further provides that each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

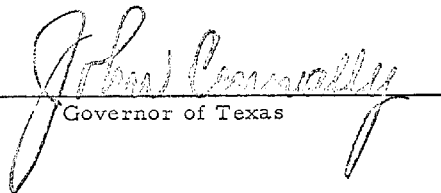
Article 16, Section 40 of the Constitution prohibits a public official, elective or appointive, from holding more than one civil office of emolument. Members of the Highway Commission hold an office as contemplated in this provision of the Constitution. Likewise, serving as a director under Section 3(h) of this Act would be "holding a civil office of emolument." The holding of these two offices would be violative of Article 16, Section 40 of the Constitution.

A similar question was raised in the Texas Turnpike Authority v. Shepperd, 279 S. W. 2d 302, a Supreme Court case concerning the Highway Commissioners serving as directors ex officio of the Toll Road Authority. The Court said, "A sufficient answer to (the contentions) is that the services of the Highway Commissioners as directors ex officio of the Toll Road Authority are without compensation and the office is not one of emolument". Of course, Senate Bill 581 provides for payment of a fee for services to these directors and is in direct contrast with the Texas Turnpike Authority.

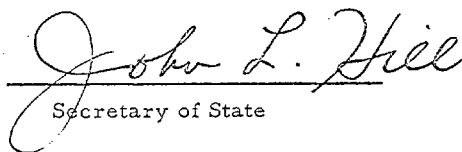
Though my veto of this bill does not necessarily indicate my disapproval of the idea as set forth, I nevertheless feel I am bound to veto it for the constitutional reasons set forth.

Senate Bill 581 was received in the Governor's Office on May 30, 1967, less than 10 days prior to the adjournment of the Regular Session of the 60th Legislature, and in accordance with Article IV, Section 14 of the Constitution of Texas, the Bill, together with this Proclamation, is filed with the Secretary of State.

IN TESTIMONY WHEREOF, I  
have hereunto signed my name  
officially and caused the seal of  
State to be affixed hereto at  
Austin this      day of June, 1967.

  
Governor of Texas

By the Governor:

  
Secretary of State